

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

CYNTHIA K. HAYNES (a/k/a Cynthia K. Randolph), individually and under the Missouri Wrongful Death Statute

Plaintiff,

VS.

JENNIFER WILLIAMS, individually, et al.

Defendants.

Case No: 1:21-CV-00160-ACL

DEFENDANT SPAIN, MILLER, GALLOWAY AND LEE, LLC'S
MOTION TO DISMISS COUNTS I-V OF THE AMENDED COMPLAINT

Defendant Spain, Miller, Galloway and Lee, LLC, by and through undersigned counsel, and for its Motion to Dismiss Counts I-V of the Amended Complaint, state as follows:

Defendant Spain, Miller, Galloway and Lee, LLC (“Spain Law Firm”) is a law firm in Poplar Bluff, Missouri, who previously employed attorney and co-defendant Jennifer Williams (“Williams”). While employed at the Spain Law Firm, Williams was appointed guardian ad litem for the minor children of Plaintiff Cynthia Haynes and Defendant Charles Haynes following allegations of neglect in their divorce in Ripley County, Missouri. Plaintiff’s claims against Williams and the Spain Law Firm arise out of the actions and omissions of Williams in the divorce proceedings and related juvenile proceedings.

Plaintiff alleges that because of the actions or omissions of Williams, M.H. committed suicide on November 24, 2018. Plaintiff has alleged multiple causes of action arising out of the same operative facts including wrongful death, legal malpractice and breach of fiduciary duty on behalf of herself and as a member of the class of individuals authorized to bring suit under the

Missouri Wrongful Death Statute (Counts I through IV). Plaintiff has alleged an additional cause of action against the Spain Law Firm for negligent supervision of Williams.

Plaintiff's claims against Williams and the Spain Law Firm must fail as Williams and her employer have absolute immunity against suit for any and all causes of action arising out of her performance of her duties as guardian ad litem. The Missouri Court of Appeals recently confirmed on December 28, 2021, that guardians ad litem are "absolutely immune" from civil liability based on the common law doctrine of quasi-judicial immunity. *Tolu v. Reid*, ED109721 (Mo. App. E.D. 2021), slip op. p. 21 citing *Bird*, 864 S.W.2d 376, 382. The determination of whether quasi-judicial immunity exists is a question of law. *Id.* at p. 17.

Defendant incorporates its Memorandum in Support of its Motion to Dismiss Counts I-V filed contemporaneously herewith.

WHEREFORE, Defendant Spain, Miller, Galloway & Lee, LLC requests that the Court dismiss with prejudice Count I through V on the basis of quasi-judicial immunity and grant Defendant such other and further relief as the Court deems just and reasonable.

Respectfully submitted,

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By: 

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Attorneys for Spain, Miller, Galloway & Lee, LLC

CERTIFICATE OF SERVICE

I, Thomas W. Collins, III, an attorney, hereby certify that a copy of the above and foregoing was filed electronically with the Clerk of the United States District Court for the Eastern District of Missouri – Southern Division, this 18th day of January, 2021, using the CM/ECF system. I further certify that I signed the original of this document and will keep said original for a period of not less than the maximum allowable time to complete the appellate process.

/s/ Thomas W. Collins, III
Thomas W. Collins, III